

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

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JERRY VANDIVER,

Plaintiff,

v.

Case No. 18-12299

RENNIA FUNCHES, et. al.,

Defendants.

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**ORDER DENYING PLAINTIFF'S MOTION FOR DISQUALIFICATION AND  
SUMMARILY DISMISSING PLAINTIFF'S COMPLAINT**

Pursuant to the court's December 19, 2018 order (Dkt. #17), the court will dismiss this case. There, the court explicitly ordered Plaintiff "that failure to provide the court documentation from an independent source verifying that he is unable to obtain service copies by Thursday, January 17, 2019 will result in dismissal of the action." (*Id.*, PageID 260.) On January 22, 2019 the court received a response from Plaintiff dated January 16, 2019 requesting that the court reconsider its prior order and "issue a writ to produce Mr. Vandiver before this Court to produce his documents." (Dkt. #19, PageID 277–78.) Plaintiff's response failed, however, to provide the court the documentation it ordered and therefore merits dismissal.

Additionally, the court has reviewed Plaintiff's "Motion for Recusal of Judge Robert H. Cleland." (Dkt. #14.) Disqualification is governed by 28 U.S.C. § 455 and "[i]n order to justify recusal under 28 U.S.C. § 455, the judge's prejudice or bias must be personal or extrajudicial." *United States v. Jamieson*, 427 F.3d 394, 405 (6th Cir. 2005) (citing *United States v. Hartsel*, 199 F.3d 812, 820 (6th Cir. 1999)). Plaintiff claims that

"Judge Cleland has for some unknown reason placed Mr. Vandiver's case on a complete 'stand still' inactive" and has caused unreasonable delays. (Dkt. #14, PageID 230.) While Plaintiff may be frustrated with the length of time required by the court to rule on his many motions, this in no way indicates that Judge Cleland "has a personal bias or prejudice" against him. Indeed, Plaintiff's allegations against Judge Cleland relate solely to the court's rulings as the presiding judge over his current and past civil rights actions. Because there is no suggestion of a personal or extrajudicial prejudice or bias against Plaintiff, the motion for disqualification will be denied. Accordingly,

IT IS ORDERED that Plaintiff's "Motion for Recusal of Judge Robert H. Cleland" (Dkt. #14) is DENIED.

IT IS FURTHER ORDERED that Plaintiff's complaint is DISMISSED WITHOUT PREJUDICE.

s/Robert H. Cleland /  
ROBERT H. CLELAND  
UNITED STATES DISTRICT JUDGE

Dated: January 25, 2019

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, January 25, 2019, by electronic and/or ordinary mail.

s/Lisa Wagner /  
Case Manager and Deputy Clerk  
(810) 292-6522

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